



United States
Department of
Agriculture

Farmers
Home
Administration

Washington
D.C.
20250

October 22, 1985

- SUBJECT: Avoidance of Duplication FmHA/SBA
Disaster Loan Program Benefits

TO: All State Directors, Farmer Program Chiefs,
District Directors and County Supervisors, FmHA

Purpose/Intended Outcome

The purpose of this Administrative Notice (AN) is to replace AN 1252 (1945) issued August 27, 1985, which contained outdated information. This AN will provide guidance to FmHA personnel on how to avoid the duplication of benefits to farm disaster victims through FmHA/SBA disaster loan programs.

Public Law 98-270 contains restrictions on farmers seeking disaster loan assistance from SBA or FmHA or from both agencies for disasters commencing on or after October 1, 1983. To implement the provisions of PL 98-270, a Memorandum of Understanding (MOU) between FmHA and SBA was signed and issued to county offices as Exhibit B-1 to FmHA Instruction 1945-D. The Exhibit B-1 should be referred to and used in conjunction with this AN when processing emergency loan applications.

Comparison with previous AN: This AN replaces AN 1252 (1945) and attachments that were issued on August 27, 1985. AN 1252 (1945) and attachments should be removed.

Implementation Responsibilities

All disaster benefits, e.g., reduced yield payments, certain preventive planting payments, insurance indemnity payments, loans and grants received as the result of natural disaster losses must be considered as compensation for those losses. All such compensatory benefits must be taken into consideration when determining the eligibility of an emergency (EM) loan applicant and the maximum amount of actual loss loan an applicant can receive.

Under these circumstances, additional administrative precautionary measures must be taken to avoid duplication of benefits being granted to applicants/borrowers. To prevent duplication of benefits, FmHA and SBA have agreed to coordinate their respective EM and disaster loan program activities as follows:

1. The FmHA County Offices will notify the appropriate SBA Disaster Area Office (see attachment) for all EM loan applications received each day. Notice will be made by forwarding to SBA a photocopy of the applicant's completed Form 410-1, "Application for FmHA Services." Block 22 of the FmHA 410-1 should indicate the purpose of the loan request and whether the request is for production and/or physical losses.

EXPIRATION DATE: August 31, 1986

FILING INSTRUCTIONS: Preceding
FmHA Instruction 1945-D



Farmers Home Administration is an Equal Opportunity Lender.
Complaints of discrimination should be sent to:
Secretary of Agriculture, Washington, D.C. 20250

2. FmHA County Offices will send a copy of each action taken with EM loan applicants to the appropriate SBA Disaster Area Office. Those actions include: letter confirming county committee eligibility determination; loan approval, Form FmHA 1940-1; notification of application withdrawal; notification of loan denial; confirmation of request for reconsideration or appeal of loan denial; and final determination on an appeal.

3. Applicants may receive an SBA loan and then file for an FmHA loan. In those cases, FmHA will either (a) reject the application, (b) reduce the FmHA EM loan by the amount of the SBA loan, which may require SBA to subordinate its lien position(s), or (c) refinance the SBA loan by using EM loan funds to pay SBA directly.

All SBA disaster loan applications are processed through the Agency's four area offices' Disaster Loan Processing Centers (see attached list). Telephone calls and written reports required to be exchanged will be made/sent directly to the appropriate SBA Area Disaster Loan Processing Center by the FmHA County Office. Copies of all written communications from FmHA County Offices to the SBA Area Offices will be sent to the State Director, Attention: Chief, Farmer Programs; and the District Director.

Also, attached are copies of SBA's instructions to their applicants. They are self explanatory and are for your reference.



VANCE L. CLARK
Administrator

Attachments



U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

Date: SEP 26 1984

To: All Area Directors, # 84-46

From: Deputy Associate Administrator for Disaster Assistance

Subject: Disaster Farm Loans: Procedures under P.L. 98-270

This memorandum replaces memorandum #84-14 dated February 15, 1984 and memorandum #84-33 dated June 19, 1984. These changes are necessary due to the extension of the duplication provision of Section 18(a) of the Small Business Act to October 1, 1986 (P.L. 98-270).

The enclosed chart provides guidelines for acceptance of farm applications until October 1, 1986. The enclosed letters should be used when returning or withdrawing and returning an SBA disaster loan application when (1) it is determined that the applicant has filed an EM loan application covering all or part of the loss from the same disaster with the Farmers Home Administration or (2) when returning an application for a loss of \$100,000 or less. These letters are revisions of the letters distributed with memorandum #84-14 and memorandum #84-33.

The enclosed NOTICE TO SBA DISASTER LOAN APPLICANTS REGARDING FmHA EM LOANS has also been revised for the same reasons.

Please use these enclosures in place of those distributed with the earlier memoranda.

Bernard Kulik
Deputy Associate Administrator
for Disaster Assistance

Enclosures

Letter #1: Applied only to SBA for Loss of \$100,000 or less
Application Returned, Advised to File with FmHA

(Date)

RE: SBA Disaster Loan Application

Dear _____:

P.L. 98-270 requires that farmers who have incurred disaster losses for which loan assistance is available from the Small Business Administration (SBA) and the Farmers Home Administration (FmHA) at substantially similar interest rates must apply to FmHA. SBA may not accept applications for such loans. Your application indicates that the amount of your disaster loss is \$100,000 or less. On such loans, the SBA and FmHA interest rates are substantially similar. Accordingly, SBA cannot accept your application.

Therefore, we are returning your disaster loan application at this time. You should file an application for disaster assistance with FmHA. If FmHA declines your emergency (EM) loan application and you do not ask FmHA for reconsideration or your reconsideration is declined, you can resubmit your SBA disaster loan application, provided:

1. The resubmission is made within 30 days of the FmHA decline, or the reconsideration decline.
2. The resubmitted application is accompanied by a copy of the FmHA decline letter and current financial data for the business.
3. The FmHA decline was not for credit reasons. An application declined by FmHA for any credit reason cannot be filed with SBA.

If you appeal an FmHA decline decision, SBA cannot accept your application until the FmHA reconsideration process has been completed. Furthermore, SBA will not accept and/or process a disaster loan application if your FmHA EM loan application is either withdrawn or approved.

Yours truly,

(signature)
name and title

Letter #2: Applied to FmHA, then SBA for Loss of \$100,000 or less
Application Returned, Advised to Await FmHA Decision

(Date)

RE: SBA Disaster Loan Application

Dear _____:

P.L. 98-270 requires that farmers who have incurred disaster losses for which loan assistance is available from the Small Business Administration (SBA) and the Farmers Home Administration (FmHA) at substantially similar interest rates must apply to FmHA. SBA may not accept applications for such loans. Your application indicates that the amount of your disaster loss is \$100,000 or less. On such loans, the SBA and FmHA interest rates are substantially similar. Accordingly, SBA cannot accept your application.

Therefore, we are returning your disaster loan application at this time pending a decision on your application for disaster assistance with FmHA. If FmHA declines your emergency (EM) loan application and you do not ask FmHA for reconsideration or your reconsideration is declined, you can resubmit your SBA disaster loan application, provided:

1. The resubmission is made within 30 days of the FmHA decline, or the reconsideration decline.
2. The resubmitted application is accompanied by a copy of the FmHA decline letter and current financial data for the business.
3. The FmHA decline was not for credit reasons. An application declined by FmHA for any credit reason cannot be filed with SBA.

If you appeal an FmHA decline decision, SBA cannot accept your application until the FmHA reconsideration process has been completed. Furthermore, SBA will not accept and/or process a disaster loan application if your FmHA EM loan application is either withdrawn or approved.

Yours truly,

(signature)
name and title

Letter #3: Applicant applied to SBA, then to FmHA
Loss is over \$100,000
Application Withdrawn and Returned

(Date)

RE: SBA Disaster Loan Application

Dear _____:

SBA must assure that its disaster loans do not duplicate any other assistance, including Farmers Home Administration (FmHA) emergency (EM) loans, for all or part of the same loss. Accordingly, SBA will not accept and/or process a disaster loan application if an EM loan application has been filed with FmHA covering all or part of the loss from the same disaster.

Our records indicate that you filed an EM loan application with FmHA on _____ for all or part of the loss from the same disaster shown on your SBA disaster loan application. Therefore, we are withdrawing and returning your SBA disaster loan application at this time.

If FmHA declines your EM loan application and you do not ask FmHA for reconsideration or your reconsideration is declined, you can resubmit your SBA disaster loan application, provided:

1. The resubmission is made within 30 days of the FmHA decline, or the reconsideration decline.
2. The resubmitted application is accompanied by a copy of the FmHA decline letter and current financial data for the business.
3. The FmHA decline was not for credit reasons. An application declined by FmHA for any credit reason cannot be filed with SBA.

If you appeal an FmHA decline decision, SBA cannot accept your application until the FmHA reconsideration process has been completed. Furthermore, SBA will not accept and/or process a disaster loan application if your FmHA EM loan application is either withdrawn or approved.

Yours truly,

(signature)
name and title

Letter #4: Applicant applied to FmHA, then to SBA
Loss is over \$100,000
Application Returned

(Date)

RE: SBA Disaster Loan Application

Dear _____:

SBA must assure that its disaster loans do not duplicate any other assistance, including Farmers Home Administration (FmHA) emergency (EM) loans, for all or part of the same loss. Accordingly, SBA will not accept and/or process a disaster loan application if an EM loan application has been filed with FmHA covering all or part of the loss from the same disaster.

Our records indicate that you filed an EM loan application with FmHA on _____ for all or part of the loss from the same disaster shown on your SBA disaster loan application. Therefore, we are returning your SBA disaster loan application at this time.

If FmHA declines your EM loan application and you do not ask FmHA for reconsideration or your reconsideration is declined, you can resubmit your SBA disaster loan application, provided:

1. The resubmission is made within 30 days of the FmHA decline, or the reconsideration decline.
2. The resubmitted application is accompanied by a copy of the FmHA decline letter and current financial data for the business.
3. The FmHA decline was not for credit reasons. An application declined by FmHA for any credit reason cannot be filed with SBA.

If you appeal an FmHA decline decision, SBA cannot accept your application until the FmHA reconsideration process has been completed. Furthermore, SBA will not accept and/or process a disaster loan application if your FmHA EM loan application is either withdrawn or approved.

Yours truly,

(signature)
name and title

1282(1945)

SBA GUIDELINES FOR ACCEPTANCE OF DISASTER FARM APPLICATIONS (under P.L. 98-270)

Applicant's Status

Losses of \$100,000 and less

Losses over \$100,000

1. Applied only to SBA

Not eligible. SBA will not accept application. Use letter #1 instructing applicant to file with FmHA. Exception: known, certain ineligibility at FmHA (e.g., ineligible status or inability to meet FmHA minimum loss threshold.)

Eligible. Application must be filed within SBA deadline.

2. Applied to SBA, then to FmHA

Same as 1 above, except use letter #2.

Although eligible, SBA application will be withdrawn and returned (using letter #3) upon filing of application at FmHA to avoid duplication of effort.

3. Applied only to FmHA

4. Applied to FmHA, then to SBA (FmHA decision still pending)

Same as 1 above, except use letter #2.

Although eligible, SBA application will be returned (using letter #4) to avoid duplication of effort.

5. Application approved by FmHA:

a. at high (credit elsewhere) rate (loan closed and disbursed)

SBA will not accept application because of duplication of effort and loss has been otherwise compensated.

SBA will not accept application because of duplication of effort and loss has been otherwise compensated.

b. at high (credit elsewhere) rate (loan not closed and disbursed)

Eligible. Must file with SBA within 30 days of FmHA approval and must have filed FmHA application within FmHA deadline. SBA will use FmHA's credit elsewhere determination.

SBA will not accept application because of duplication of effort and loss can be otherwise compensated.

c. at low (no credit elsewhere) rate

Not eligible. Interest rates are substantially similar.

SBA will not accept application because of duplication of effort and loss can be otherwise compensated.

6. Application declined by FmHA:

a. for credit reasons

SBA will not accept application because of duplication of effort and reliance upon determination of agency with greater expertise in agricultural credit matters.

SBA will not accept application because of duplication of effort and reliance upon determination of agency with greater expertise in agricultural credit matters.

b. for ineligible status (alien, not primarily engaged in farming, non-operating owner, etc.)

Eligible. Must file with SBA within 30 days of FmHA decline or decline on reconsideration, must have filed FmHA application within FmHA deadline, and SBA must have letter or other evidence from FmHA of ineligible status as reason for decline.

Eligible. Must file with SBA within 30 days of FmHA decline or decline on reconsideration, must have filed FmHA application within FmHA deadline, and SBA must have letter or other evidence from FmHA of ineligible status as reason for decline.

c. for not meeting FmHA minimum loss threshold

Eligible. Must file with SBA within 30 days of FmHA decline or decline on reconsideration, must have filed FmHA application within FmHA deadline, and SBA must have letter or other evidence from FmHA of inability to meet threshold as reason for decline.

Eligible. Must file with SBA within 30 days of FmHA decline or decline on reconsideration, must have filed FmHA application within FmHA deadline, and SBA must have letter or other evidence from FmHA of inability to meet threshold as reason for decline.

d. for late filing (past FmHA deadline)

Not eligible.

Not eligible.

e. for any reason, and still pending at FmHA (under reconsideration or appeal)

Premature.

Premature.

7. Application withdrawn at FmHA:

a. after formal determination by FmHA of credit elsewhere or finding of ineligible status (alien, not primarily engaged in farming, non-operating owner, etc.)

Eligible. Must file with SBA within 30 days of FmHA determination of credit elsewhere, and must have filed FmHA application within FmHA deadline.

Eligible. Must file with SBA within 30 days of FmHA determination of credit elsewhere, and must have filed FmHA application within FmHA deadline.

b. for any other reason

Not eligible.

Not eligible.

DISASTER AREA OFFICES

DAO-1
(Regions I & II)

CARL J. JORDAN, ~~ASSISTANT~~ DIRECTOR
Disaster Area 1 Office
Small Business Administration
15-01 Broadway
Fair Lawn, NJ 07410

INTERSTATE: 800-221-2093

Connecticut, Maine, Massachusetts,
New Hampshire, New York, Puerto
Rico, Rhode Island, Vermont and
Virgin Islands and New Jersey

IN NEW JERSEY: 800-221-2091

FTS: 8/348-0011
COMML: 201/794-8195

DAO-2
(Regions III, IV & V)

RICHARD J. NASH, DIRECTOR
Disaster Area 2 Office
Small Business Administration
Richard B. Russell Federal Bldg.
75 Spring Street, S.W. Suite 822
Atlanta, GA 30303

INTERSTATE: 1-800-334-0309/10

Alabama, Delaware, District of
Columbia, Florida, Illinois,
Indiana, Kentucky, Maryland,
Michigan, Minnesota, Mississippi,
North Carolina, Ohio, Pennsylvania,
South Carolina, Tennessee, Virginia,
West Virginia and Wisconsin and Georgia

IN GEORGIA: 1-800-241-5625

FTS: 8/242-5822
COMML: 404/221-5822

DAO-3
(Regions VI & VII)

GEORGE L. DARBY, DIRECTOR
Disaster Area 3 Office
Small Business Administration
2306 Oak Lane Suite 110
Grand Prairie, TX 75051

INTERSTATE; 800-527-7735

Arkansas, Iowa, Kansas, Louisiana,
Missouri, Nebraska, New Mexico and
Oklahoma and Texas

IN TEXAS: 800-442-7206

FTS: 8/729-7571
COMML: 214/767-7571

DAO-4
(Regions VIII, IX & X)

ROBERT L. BELLONI, DIRECTOR
Disaster Area 4 Office
Small Business Administration
77 Cadillac Drive Suite 158
Sacramento, CA 95825

INTERSTATE: 800-468-1710

Alaska, Arizona, Colorado, Hawaii,
Idaho, Montana, Nevada, North
Dakota, Oregon, South Dakota, Utah,
Washington and Wyoming and California
and Guam

IN CALIFORNIA: 1-800-468-1713

FTS: 8-460-4571
COMML: 916/978-4571

NOTICE TO SBA PHYSICAL DISASTER LOAN APPLICANTS REGARDING FmHA EM LOANS

Some farmers may be eligible to request disaster loan assistance from two Federal agencies for losses from the same disaster. Such farmers have three choices:

1. Farmers may request emergency (EM) loans from Farmers Home Administration (FmHA) rather than from SBA. FmHA programs are specifically directed at meeting agricultural and farming needs.
2. Some farmers may request physical loss and/or economic injury disaster loans from the Small Business Administration (SBA) rather than from FmHA. Only farmers with losses greater than \$100,000 can apply directly to SBA. As with all business applicants, farmers must file SBA disaster applications within the SBA filing deadline as stated on the application.
3. If a farmer elects to request assistance from both FmHA and SBA, the following procedures apply:
 - A. The amount of the loss must be greater than \$100,000. Losses of \$100,000 or less are not eligible at SBA because the law provides substantially similar interest rates from FmHA.
 - B. To prevent possible duplication of benefits, FmHA and SBA will not process applications at the same time. If a farmer elects to request assistance from both agencies, FmHA will process its application first. SBA will not process its application until FmHA processing is completed. If FmHA declines an EM loan application, SBA will accept a resubmitted disaster loan application provided:
 - (1) The farmer filed with SBA within 30 days of the FmHA decline, or the reconsideration decline, and
 - (2) The resubmitted application is accompanied by a copy of the decline letter, and current financial data, and
 - (3) The FmHA decline was not for credit reasons. An application declined by FmHA for any credit reason cannot be filed with SBA.
 - C. SBA will not consider a disaster loan application if a FmHA EM loan application for the loss from the same disaster is withdrawn or approved. However, if FmHA approves a loan for \$100,000 or less at the credit elsewhere (high) interest rate, and the farmer does not close and receive loan disbursement, the farmer may apply to SBA for a loan at the credit elsewhere (high) interest rate.